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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3812 OF 2007

Jagdish Electronics (I) Pvt. Ltd. ... Petitioner

V/s

Namdeo Kondiba Shitole & anr. ... Respondents

Mr. K.M. Naik i/by S.P. Salkar for the petitioner.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 4th JULY, 2007.

P.C.:

1. The petitioner challenges the Award Part-I passed by the Labour Court in Reference (IDA) No. 428 of 1998. By this award, the Labour Court held that the enquiry conducted against the respondent workman was not fair and proper and was not in accordance with the principles of natural justice. The petitioner has been granted liberty to prove the misconduct against the respondent workman and to justify its action of dismissal by leading evidence.

2. The main contention on behalf of the petitioner is that, several adjournments were sought by the respondent workman and ultimately he wanted to change his defence

representative. According to the petitioner, these were delaying tactics used by the workman to prolong the enquiry.

3. A perusal of the award indicates that, after the evidence of the petitioner was closed, the enquiry proceeding was adjourned from time to time due to absence of either the respondent workman or his defence representative. Thereafter, on 4.10.1997, an application was made by the workman to engage another representative. This application was rejected by the enquiry officer, due to which the workman could not defend himself. The Enquiry Officer directed the workman to submit his defence statement, if he wanted, to the management representative by 14.10.1997. Such a procedure adopted by the Enquiry Officer is wholly illegal. The statement of the delinquent must be made before the Enquiry Officer who has to record the same. In my view, there is no need to interfere with the Part-I Award passed by the Labour Court.

4. Writ petition is rejected.

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